BEFORE THE HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH

CIVIL REVISION NO. 104 /2005 (SB)

PETITIONERS
Defendant 1 & 2

:1. Himalaya Commercial Complex Pvt. Ltd., Supela Bhilai, Distt. – Durg (C.G.),
Through :

1. Santosh Golechha, Director, aged about 51 years, S/o Late Shri Kewal Chand Jain, R/o Usha .Kiran, Malviya Nagar, P.O. & Distt.-Durg (C.G.)

2. Dilip Golechha, Director, aged about 40 years, S/o Late Shri Manohar Lal Golechha, R/o 36, Ayodhya Complex, Malviya Nagar, P.O. & Distt. – Durg (C.G.)

P.R. No. 13807/05
Presented by Shri Ramesh Khetan
dated 9.11.05

VERSUS

RESPONDENTS
Plaintiff

:1. Bhilai Builders Pvt. Ltd., B-2/11, Ravi Bhawan, GE Road, Raipur,
Through : Smt. Madhu Jain, W/o Gulab Chand Jain, Director, R/o B-2/11, Ravi Bhawan, GE Road, P.O.- & Distt. Raipur (C.G.)

RESPONDENTS
Defendants – 3 & 4

:2. Gulab Chand Jain, S/o Late Shri Lal Chand Jain, aged about 44 years.

3. Kishore Chand Jain, S/o Late Shri, Lal Chand Jain, aged about 41 years.

Both R/o Sanichari Bazar, P.O.- & Distt. – Durg (C.G.)

4. The Manager Lease and Rent, Bata India Ltd. 6-A, S.N. Banerjee Road, Kolkata (WB)

(11)

REVISION UNDER SECTION 115 OF CODE OF CIVIL PROCEDURE, 1908.

(91)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक C.R. NO. 104/05 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

07/11/2005

Shri B.R. Ghosh, Counsel for the petitioners.

Heard on admission.

Respondent No.1 filed a civil suit for declaration of title and arrears of rent. Petitioners filed an application under Order 7, Rule 11 of the C.P.C. averring that the suit is barred by the provisions of Companies Act, 1956. Learned Court below considered the pleading and held that the suit has been filed for declaration of title is not barred under the Companies Act, 1956, therefore rejected the application filed under Order 7 Rule 11 of the C.P.C.

According to Order 7, Rule 11 (d) of the C.P.C., the plaint shall be rejected where from the statement in the plaint the suit appears to be barred by any law. Learned lower Court considered this aspect and passed the impugned order. Therefore, the impugned order does not suffer from any illegality or irregularity which may call for any interference. If jurisdiction of Court is challenged and pressed by the petitioners/defendants by specific pleading, the Court may, if deem fit, after framing preliminary issue decide the same on its merit.

With the aforesaid observations, the revision is dismissed.

In the light of above order, M.C.P.No. 1222/2005 and IA Nos. 2321/2005 and 7076/2005 stand disposed of.

Certified copy as per rules.

Sd/-
V.K.Shrivastava
Judge

(पीछे देखिये)